

Sep. 14. 2006 3:39PM

INGRASSIA FISHER & LORENZ PC

No. 2904 P. 1

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TO:	FROM:
Examiner R. M. Mancho	S. Jared Pitts, Reg. No. 38,579
COMPANY:	DATE:
USPTO	THURSDAY, SEPTEMBER 14, 2006
FACSIMILE NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
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PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
	H0005645-3008
RE:	RECIPIENT'S REFERENCE NUMBER:
Response	10/628,085

URGENT

FOR REVIEW

PLEASE COMMENT

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NOTES/COMMENTS:

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Dennice F. GAYME et al. Group Art Unit: 3663
Serial No.: 10/628,085 Examiner: R. M. Mancho
Filed: July 24, 2003 Confirmation No.: 3521

For: FAULT DETECTION SYSTEM AND METHOD USING AUGMENTED DATA AND
FUZZY LOGIC

Docket No.: H0005645-3008
Customer No. : 000128

<p align="center">Certificate of Transmission</p> <p>I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300</p> <p>on <u>14 Sept 2006</u> (Date).</p> <p>by Signature <u>S. Jared Pitts</u></p> <p align="center">S. Jared Pitts</p>
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RESPONSE TO RESTRICTION REQUIREMENT

Applicants are in receipt of a Restriction Requirement mailed August 14, 2006, in which three allegedly distinct inventions were identified as follows:

Group I - Claims 1, 2, 5-7, 9-11, 31, 33, 34, 36-38;

Group II - Claims 12, 14-16, 18-20; and

Group III - Claims 21-23, 25, 26, 28-30.

Furthermore, the Restriction requirement identified two allegedly patentably distinct species. Specifically, the Examiner alleged a species A "where the sensor data processor augments the sensor by determining a rate of change in the sensor data, only" and species B "where the sensor data processor augments the sensor data by computing a margin for the sensor data".

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In response, Applicants, through their representatives and attorneys, hereby elect Species B of Group 1 (e.g., Claims 1, 5-7, 9-11, 31, 33, 34, 36-38) with traverse.

Reasons for Traversal

First, applicants respectfully point out that this restriction requirement was received after the submission of a first office action on the merits, a second office action on the merits, an advisory action, and the filing of a notice of appeal along with a request for pre-appeal review. Applicants note that this highly unusual, and applicants question propriety of issuing a restriction requirement after prosecution on the merits has proceeded to this point.

Next, Applicants wish to point out that this traversal is not an admission that any or all of the cited species are not independent, nor that any or all of the cited species are not patentably distinct from one another. However, Applicants do submit that the independent and patentably distinct species are related under the particular disclosure. Where, as here, "inventions as disclosed and claimed are both (A) species under a claimed genus and (B) related, then the question of restriction must be determined by both the practice applicable to the election of species and the practice applicable to other types of restrictions such as those covered in MPEP § 806.05 – 806.05(i)." See M.P.E.P. § 806.04(b). In accordance with this practice, when several patentably distinct inventions are disclosed as being related, the Examiner must establish reasons for insisting upon restriction. In particular, reasons for insisting upon restriction must be shown by an explanation of: (1) separate classification; (2) separate status in the art when classifiable together; or (3) a different field of search. See M.P.E.P. § 808-808.02. Applicants submit that such an explanation has not been provided, and further submit that one cannot be so provided. **For example, applicants note that the Examiner has already examined these claims on the merits, and thus it cannot be said these claims now would require a different field of search or that such a search would be a burden on the Examiner.** Second, applicants note that while the claims in group I are directed toward an apparatus and system, the claims in group II are directed toward a method, and the claims in group III "program-product", they are **all directed in general to detecting faults in a turbine engine.**

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Compare claim 21 with claim 31, as one specific example. Applicants thus submit that the requirements for a restriction cannot be shown, and that the restriction requirement should be withdrawn.

Respectfully submitted,

Dated: 14 Sept 2006

By: 

S. Jared Pitts
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